

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0604P

Gross Income Tax

Calendar Years 1994, 1995, 1996 and Short Year 8/31/97

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. **Tax Administration** – Interest

Authority: IC 6-8.1-10-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated November 4, 1999, protested the penalty and interest assessed in an audit completed on June 28, 1999. Taxpayer generates receipts from the performance of a service agreement within Indiana by its employees. Gross Income derived from the performance of service within Indiana is subject to Gross Income Tax at the higher rate per 45 IAC 1-1-96 and 45 IAC 1-1-121. Taxpayer failed to report these receipts. Taxpayer protests the penalty and interest assessed because the department did not issue its proposed assessments until four months after the audit was completed. Taxpayer further states that after speaking to an individual in the department regarding the interest expense, the interest was recalculated by the department through August 1, 1999. Taxpayer requests a compromise of penalty (totaling \$4,155.78) and interest (totaling \$1,244.29) for reasonable cause, as the failure to file occurred due to ignorance and not withstanding the exercise of ordinary care and the absence of willful neglect.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent when it failed to report service income for gross income tax.

Taxpayer states it has always been in compliance with respect to annual filings of corporate returns and it relied on the advice of outside tax advisors as to what was required with respect to state compliance because it did not have a tax function for the years audited.

Taxpayer failed to report high rate gross income, paid less than fifty percent of the tax due and did not show reasonable cause for failing to report high rate receipts.

FINDING

The taxpayer's protest is denied.

II. **Tax Administration** – Interest

DISCUSSION

Taxpayer protests the interest assessed due to the time lapsed between audit and time of billing.

Interest, under IC 6.8-1-10-1 may not be waived.

FINDING

Taxpayer's protest is denied.

CONCLUSION

Taxpayer's protest is denied for issues II and I.